



Appeal Decision

Site visit made on 20 November 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2024

Appeal Ref: APP/T5150/W/23/3323200

46 Eagle Road, Wembley, Brent HA0 4SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nitesh Mehta against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3528, dated 13 October 2022, was refused by notice dated 8 December 2022.
 - The development proposed is demolition of existing workshop to rear of 46 Eagle Road, subdivision of rear garden to facilitate erection of two-storey dwelling house, associated off road parking space, refuse storage, amenity space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing workshop to rear of 46 Eagle Road, subdivision of rear garden to facilitate erection of two-storey dwelling house, associated off road parking space, refuse storage, amenity space and landscaping at 46 Eagle Road, Wembley HA0 4SJ in accordance with the terms of the application, Ref 22/3528, dated 13 October 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The address on the application form refers to the site being at 46 Eagle Road (No 46). For clarity, whilst the site is situated to the rear of No 46, it is located on and would be accessed from Thurlby Road.
3. The appellant has provided an amended south elevation within their submission (Appendix C), which includes the insertion of one obscurely glazed non-openable window to the ground and first floor. In the interest of fairness this plan is unlikely to have been consulted upon and as such I am not considering it as part of my assessment.

Main Issues

4. The main issues are:
 - The effect of the proposed new dwelling on the character and appearance of the surrounding area; and
 - Whether the proposed new dwelling would provide; adequate living conditions for the future intended occupiers, with particular regard to internal living space; and existing occupants of 46 and 48 Eagle Road (No 48) in terms of outlook.

Reasons

Character and appearance

5. The built form largely consists of streets running at 90 degrees from Eagle Road with the gardens creating separation from those streets behind. Thurlby Road is predominately characterised by two-storey semi-detached dwellings with bay windows and projecting bays to the ground and first floors, with canopies over the front door and hipped roofs. Properties are set back from the road by front gardens and drives. No 48 appears to have been converted into flats and has a flat roof dormer extension giving the appearance of a three-storey dwelling from the rear. No 46 also appears to have been converted into flats and has a modest single storey extension to part of the rear elevation. The appeal site comprises land to the rear of No 48 occupied by the existing garage structure and part of the rear garden associated with No 46.
6. The spaciousness to the rear of Eagle Road and Thurlby Road is currently interrupted by the presence of detached single-storey buildings. The workshop to the rear of No 48 extends approximately the full width of the appeal site and sits forward of the established building line to Thurlby Road. To the rear of No 50 Eagle Road is a brick-built structure set at right angles to Thurlby Road, with a blank elevation to the back of the pavement. Both detached buildings step beyond the established building line and are readily visible within the street scene. Their squat form and stepped nature interrupts the built form and appears awkward in the immediate surroundings.
7. The Council contend that the appeal site is backland infill and that the scale of development should reflect its setting. Whilst I agree that land to the rear of No 46 still forms part of the garden and would constitute backland infill, the land to the rear of No 48 is not, having operated as a workshop for some time and the land physically separated from No 48.
8. The proposed dwelling would incorporate similar eaves and ridge height established by 111 Thurlby Road (No 111). It would also incorporate design cues reflecting its immediate context. Its siting would maintain the prevailing pattern of development providing a visual continuity of the street within which it is located. The use of similar materials would assist in the dwelling blending into its siting and make a positive contribution to the street scene thus ensuring that the proposed dwelling would integrate into the local character. Furthermore, the landscaping to the front would soften the street scene and create a quality of place.
9. I accept that the south façade would be blank and lack articulation, however the first-floor gable elevation of No 111 is also blank. As such there would be no obvious change to the character or appearance of the street.
10. The Council contend that the proposed dwelling is taller than the previous scheme¹, however I have not been provided with the details and as such cannot make my own comparison. Nevertheless, each application needs to be considered on its own merits.
11. I conclude that the proposed dwelling would not have an unacceptable adverse effect on the character and appearance of the surrounding area. There would be no conflict with Policies DMP1 and BD1 of the Brent Local Plan 2019-2041

¹ 22/1651

(2022) (Local Plan), which taken together seek, for development to complement the locality; and be of the highest architectural and urban design quality. There would also be no conflict with Brent Design Guide SPD1 2018 (SPD1) which seeks, amongst other things, to ensure new development relates to the local area in terms of scale, massing and materials.

Living conditions – future occupants

12. The Council questions whether the floor to ceiling height and internal area provide future occupants with satisfactory living accommodation. Drawing 22/3494/17 identifies the floor to ceiling height within the proposed dwelling would be 2.6 metres to the ground floor and 2.5 metres to the first floor. These heights accord with the 2.5 metres set out in Policy D6 of the London Plan.
13. I have taken the GIA from drawing 22/3494/15 – Proposed Floor Plans which identifies the GIA to be 58 sqm. This accords with the minimum GIA set out in Policy D6 for a 1 bed/ 2-person dwelling. The Council have not provided any evidence to dispute the figure provided on the submitted drawing, and I am satisfied that the standard of accommodation would be acceptable.
14. I conclude that the proposed dwelling would achieve the minimum internal space standards with regards to the floor to ceiling height and GIA. It would therefore provide good standard of accommodation for future intended occupiers. The proposed dwelling would accord with Policy DMP1 of the Local Plan and Policy D6 of the London Plan which seek collectively, high levels of internal and external amenity for future occupiers. It would also comply with SPD1 which seeks, amongst other matters, to provide adequate amenity for new residents.

Living conditions – Nos 46 and 48

15. The proposed new dwelling would be set predominately within the rear garden of No 46, with the front garden and off-street parking bay set to the rear of No 48. Drawing 22/3494/17 Rev A submitted alongside the appellant's statement depicts the 45-degree line as set out in Principle 5.1 of the SPD1. The thrust of SPD1 is reflected in Policy DMP1 of the Local Plan, which seeks, amongst other matters, to ensure development is, proportionate to the siting, layout, scale and density.
16. The proposed dwelling would fall below the 45-degree line when taken from No 48, it would however breach the 45-degree line at eaves level when taken from No 46. Whilst SPD1 is a material consideration, Principle 5.1 states proposals "should normally" fall below the 45-degree line. The Council do not dispute the fact that the proposed dwelling is unlikely to affect sunlight levels or create overshadowing to either Nos 46 or 48 and that the existing occupants of No 46 would retain approximately 106 sqm of external amenity space. Given the limited degree by which the proposed dwelling would cut across this line, I do not consider that the proposed dwelling would appear unduly oppressive or overbearing to the existing occupiers of either Nos 46 or 48.
17. Furthermore, whilst the submitted drawing does not annotate the 30-degree line to show compliance with SPD1 it is noted that the Council in their officer report considers that the building would accord with it. I see no reason to disagree with the Council on this point.

18. I conclude that the proposed dwelling would provide adequate outlook to No 46 and No 48 ensuring good living conditions for the existing occupants. There would be no conflict with Policies DMP1 and BD1 of the Local Plan, which seek, amongst other matters, for development to ensure high levels of internal and external amenity and good urban design which contributes to quality of place. There would also be no conflict with the general guidance set out within SPD1 which seeks, amongst other matters, adequate amenity for existing residents.

Other Matters

19. The proposed dwelling is shallower than No 111, with the rear elevation projecting up to but not beyond the window within the flank wall of No 111 identified on drawing 22/3494/13. I have not been provided with any evidence to identify the room layout within No 111 or quantify the perceived level of light loss. I did observe that the boundary fence to the rear of No 46 is lower than those adjoining fences at present. Therefore, any increase in height on this boundary would limit the amount of light into No 111. I am also mindful that the Council have raised no concerns with regards to issues of daylight, outlook or overshadowing to No 111. As such I give this matter little weight.

Conditions

20. The Council has suggested a number of conditions which I have considered against the tests set out in the National Planning Policy Framework and Planning Practice Guidance. In some instances, I have made minor changes to wording to improve precision and enforceability. In addition to the standard time limit a condition specifying the plans is necessary in the interests of certainty.
21. In the interests of the character and appearance of the area, conditions relating to materials, landscaping and boundary treatments are required. To ensure that the development provides satisfactory provisions and living conditions for future occupiers, conditions which require implementation of approved refuse and recycling storage, secure car parking and cycle parking are necessary.
22. I do not consider it necessary to impose a condition restricting the erection of a porch, driveway or alter the chimney. I do however consider it necessary to restrict the extent the property can extend, alter the roof, as well as the construction of any outbuildings under permitted development given the proximity of properties and to protect the amenity of nearby residents. Furthermore, as the proposed site plan does not show any entrance gates, I do not consider it reasonable to impose a condition requiring details to be submitted.

Conclusion

23. I conclude that the proposal would not harm the character or appearance of the area and would provide those future intended occupiers and existing occupiers at No 46 and No 48 with adequate living conditions. The scheme would therefore comply with the development plan taken as a whole and there are no material considerations to indicate a decision otherwise than in accordance with the development plan. For these reasons, I conclude that the appeal should succeed.

L Clark

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in material accordance with the following approved drawings:

22/3494/13
22/3494/15
22/3494/16
22/3494/17
- 3) Notwithstanding Condition 2, prior to the construction of any external surfaces of the development hereby permitted, details of the materials to be used in the construction of all new external surfaces, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding Condition 2, prior to first occupation of the dwelling hereby permitted, details of soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include planting plans and schedules of plants noting species. The approved planting shall be carried out in the first planting season following first occupation; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the occupation of the dwelling hereby approved, details of the boundary treatment and means of enclosure within the site, shall have been submitted to and approved in writing by the Local Planning Authority. Those details shall include plans at a minimum scale of 1:100 as well as details of materials and finish. The development shall be carried out in accordance with the approved details and shall be maintained and retained thereafter.
- 6) Notwithstanding Condition 2, the dwelling hereby approved shall not be occupied until details of refuse and recycling storage within the site, as well as a point of collection, shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include drawings at a scale of 1:50 and show space for recycling containers and wheeled refuse bins, as well as include details of materials used in the construction of the refuse and recycling storage, enclosures or screening. The development shall be carried out in accordance with the approved details and be retained as refuse and recycling storage for the occupiers of the approved development thereafter.
- 7) Prior to the occupation of the dwelling hereby approved, the vehicle parking space shall be constructed in accordance with the approved details and shall be maintained and retained thereafter.
- 8) Notwithstanding Condition 2, prior to the occupation of the dwelling hereby approved, details of secure cycle parking within the site shall have been submitted to and approved in writing by the Local Planning Authority. These

details shall include plans at a minimum scale of 1:50 to show the location of cycle parking and include the type of stands to be installed. The development shall be carried out in accordance with the approved details and the space shall thereafter be retained as secure cycle parking for the occupiers of the approved development.

- 9) No further extensions or buildings shall be constructed within the curtilage of the dwelling houses subject of this application, notwithstanding the provisions of Classes A, B and E of Part 1 Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015, (as amended), (or any order revoking and re-enacting that Order with or without modification) unless a formal planning application is first submitted to and approved by the Local Planning Authority.

*** END OF CONDITIONS ***